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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,634	09/17/2003	Amr Hassan O'Baid	844,004-301	8973
34263	7590	12/02/2005	EXAMINER	
O'MELVENY & MYERS LLP 610 NEWPORT CENTER DRIVE 17TH FLOOR NEWPORT BEACH, CA 92660			DOERRLER, WILLIAM CHARLES	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,634	<b>Applicant(s)</b> O'BAID ET AL.	
	<b>Examiner</b> William C. Doerrler	<b>Art Unit</b> 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-17-03, 1-29-04, 11-5-04, 2-17-05</u> | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 1-29-2004 and 2-17-2005 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

The US and Foreign references from all the IDS forms have been considered. The Scharen article is not in the file, so it has not been considered. The Lewis article from the 2-17-05 IDS is not in the file, but a different article by Lewis et al from a different Journal is in the file, but has not been cited.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 6 of claim 1, stating that the heat rejector surrounds the cryocooler is misdescriptive. The heat rejector does not cover the cryocooler on all sides, so it is not seen as surrounding the cryocooler. Better terms would be "attached to" or "encircling". The other claims depend from claim 1, so they are unclear by their association. Claim 5

cites a NEMA-4X standard. Industry standards should not be used in claims, since they are liable to be changed during the prosecution, or enforceable life of a patent.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Hutchison et al (6,310,372).

Hutchison shows a finned heat sink 86 which is thermally coupled to a heat generating component 16 through a plurality of heat pipes 84.

Claims 13-16,18,19,20,23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Zapach et al (5,842,514).

Zapach et al show a finned heat exchanger 14 which is thermally coupled to a heat rejector which rejects heat from heat generating components 20. The thermal coupling is accomplished through heat pipes 34 which are fastened to the rejector in a c-shaped recess 38. Housing 44 encloses the heat pipes.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-17, 17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (either 6,331,498 or 6,112,526) in view of Zapach et al. Chase discloses applicants' basic inventive concept, a receiver 16 for telecommunications with a cryocooler 22 to cool the receiver with the cryocooler having a heat rejector 30 which is thermally coupled to a finned heat exchanger 34 through heat pipes 28 (stainless steel tubes with ammonia used as the refrigerant), substantially as claimed with the exception of specifying how the heat pipes are fastened to the heat rejector, or specifying the materials used for the rejector. Zapach et al show c-shaped recesses to be known in the heat pipe to heat rejector fastening art. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Zapach et al to modify the cryocooled receiver of Chase by using c-shaped recesses to mount the heatpipes to ensure high surface area for the heat transfer. In regard to the specific material for the heat rejector, Official Notice is taken that copper is well known as a relatively inexpensive material with high thermal conductivity and is


commonly used for heat exchangers and as such would have been an obvious modification for an ordinary practitioner in the art. In regard to claim 5, Applicant has only described the NEMA-4X standard in the specification as being able to be used inside, or outside, the device of Chase can be used either inside or outside, so this limitation is seen as being met. Applicant is cautioned against the use of industry standards in the claims, since standard are liable to change. In regard to claims 6-10, the positioning of the device is not seen to change the functioning of the device in any way, so it is considered obvious that an ordinary practitioner in the art would consider the device of Chase for any indoor or outdoor use that requires the cooling of electronic devices to cryogenic temperatures.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William C Doerrler  
Primary Examiner  
Art Unit 3744

WCD